

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MARK AND TRACY GRIFFIETH

COMPLAINANTS

VS.

OWEN ELECTRIC COOPERATIVE, INC.

DEFENDANT

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) CASE NO. 95-156
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O R D E R

On April 4, 1995, Mark and Tracy Griffieth filed a complaint against Owen Electric Cooperative, Inc. ("Owen") alleging that the deposit required from them by Owen had been miscalculated. By Order of April 11, 1995, the Commission directed Owen to either satisfy the matters complained of or file a written answer within ten days of the date of the Order. On April 21, 1995, Owen filed an answer stating that the deposit had been calculated based on the Griffieths' actual usage, and was therefore accurate. The Commission issued an information request June 29, 1995, to which Owen responded July 5, 1995.

FINDINGS OF FACT

Owen is an electric cooperative that owns, controls, and operates facilities used in the distribution of electricity to the public for compensation. Its office is located at 510 South Main Street, Owenton, Kentucky. The Griffieths reside at 515 Saylor Road, Corinth, Kentucky. They have been customers of Owen since 1990. From September 1992 through June 1994, the Griffieths

resided elsewhere but continued to receive a monthly billing for the vacant Saylor Road residence. Since July 1994 the Griffieths have actually been in residence at 515 Saylor Road.

Owen requires a deposit from the Griffieths of \$440.00. This was calculated based on nine months (July 1994 through March 1995) of actual usage at approximately \$220 per month, which was then doubled to determine a two-twelfths deposit. Owen's position is that deposits should be based upon its members' actual electric usage at a particular location while the member is occupying and utilizing that location. Here, the Griffieths had only occupied and utilized the residence at 515 Saylor Road for nine months. Prior to that the premises were unoccupied, and the Griffieths were billed only a monthly facility charge. Owen thus based the Griffieths' deposit on only nine months of actual usage.

The Griffieths' position is that their deposit should be calculated based on their most recent twelve month billing history with Owen, regardless of how many of those months they actually resided at the Saylor Road address. According to the Griffieths, the monthly bills they received during that period represent their actual usage, and the deposit should be figured accordingly. Based on the Griffieths' calculations, the average monthly bill for the twelve month period is \$170.74, resulting in a two-twelfths deposit of \$341.48.

In its answer, Owen offered an alternative deposit of \$400.00. Here, rather than just using the nine months of actual usage available, Owen estimated an additional three months (April, May,

and June 1994) of actual usage. These estimates were based on the Griffieths' previous actual usage, modified by the personal judgment of Owen's personnel regarding weather impact. Using nine months of actual usage and three months of estimated usage, the average monthly bill is approximately \$200.00, resulting in the proffered two-twelfths deposit of \$400.00.

CONCLUSIONS OF LAW

As there are no relevant facts at issue in this case, the Commission bases its decision solely on its interpretation of 807 KAR 5:006, Section 7(1). This regulation permits a utility to require a minimum cash deposit or other guaranty to secure payment of bills. It provides alternate methods for determining the amount of deposit. Owen has chosen the method provided by 807 KAR 5:006, Section 7(1) (a), or "Calculated Deposits".

If actual usage data is available for the customer at the same or similar premises, the deposit amount shall be calculated using the customer's average bill for the most recent twelve (12) month period. If actual usage data is not available, the deposit amount shall be based on the average bills of similar customers and premises in the system. Deposit amounts shall not exceed two-twelfths (2/12) of the customer's actual or estimated annual bill where bills are rendered monthly,

The regulation clearly states that deposits shall be calculated using the customer's average bill for the most recent twelve month period. Owen can thus not base the deposit it requires from the Griffieths on a nine month period as it did in reaching the \$440.00 figure. While nine months may have been the only period for which actual usage data was available, utilities are required to base deposits on a twelve month period.

The Griffieths' proposal uses a twelve month period, but it is not twelve months of actual usage as required. The purpose of a deposit is to protect the utility from nonpayment. Therefore, to be effective, the deposit must be based on what a customer's actual monthly bill has been or will probably be. The purpose behind a deposit is thwarted when the deposit is calculated to include months during which the customer's property was vacant. The electricity consumed during these months bears no relation to the electricity consumed at the same residence when it is occupied. If a residence is to always be vacant at certain times during a twelve month period, then such months should be included. Such is not the case here as the Griffieths are now residing at 515 Saylor Road year round. Any deposit required should reflect their electricity usage during a twelve month period as accurately as possible.

807 KAR 5:006, Section 7(1)(a), states that where actual usage data is not available, the deposit shall be based on the average bills of similar customers and premises within the system. It is not necessary to use the average bills of similar customers and premises here, as there is actual usage data available. During the twelve months in question, the Griffieths resided at 515 Saylor Road for nine months. Taking the actual usage data available for these nine months, reasonable estimates can be made regarding the electricity that would have been used had the Griffieths resided at 515 Saylor Road during the remaining three months. This is the alternative proposed by Owen and the best interpretation of the regulation for the circumstances involved.

Using this alternative, Owen determined that the Griffieths should pay a deposit of \$400.00. In deriving this amount, Owen took into account its rate decrease which went into effect January 1, 1995, for the three estimated monthly billings in 1994 as well as for the January, February, and March 1995 billings. Owen used its pre-reduction rates, which were the actual rates charged, for the other six months of the twelve month period. Rather than use this method, Owen should calculate the amount of deposit based on only its current rates. This will provide consistency as well as satisfy the purpose behind the deposit.

When Owen's current rates are applied to the twelve month period in question, the Griffieths' combined estimated and actual average monthly bill is \$193.24. Owen could thus require the Griffieths to pay a deposit of no more than \$386.48, which could be rounded to \$385.00.

IT IS THEREFORE ORDERED that:

1. Based on the proper application of 807 KAR 5:006, Section 7(1)(a), for the circumstances here presented, Owen shall use the nine months of actual usage data available to estimate what the actual usage during the other three months would have been had the Griffieths resided at 515 Saylor Road for a full twelve month period. The resulting twelve month period shall then be used to calculate the Griffieths' average monthly bill based on Owen's current rates. Owen may charge a deposit that does not exceed two-twelfths of the Griffieths' actual or estimated annual bill.

2. Based on the revised calculation of deposit provided by Owen in its answer, and using Owen's current rates, Owen may require a deposit of up to \$386.48 from the Griffieths.

Done at Frankfort, Kentucky, this 21st day of July, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director